

**House of Representatives Committee on International Relations  
Hearing of the Subcommittee on Africa, Global Human Rights and International Operations**

**“Monitoring Respect for Human Rights around the World: A Review of the Country Reports  
on Human Rights Practices for 2005”**

**Thursday, March 16, 2006**

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Thank you Mr. Chairman for inviting Human Rights in China (HRIC) to testify today and for your leadership in tackling the challenges of promoting greater freedom on the Internet.

The 2005 State Department’s Country Report on Human Rights Practices is an important monitoring tool for advancing the U.S. government’s commitment to promoting the observance of internationally recognized human rights by all countries. Through its in-depth analysis of human rights violations in countries around the world, it will help to ensure that gross human rights violations will not be easily trumped by security and trade agendas.

While noting some positive developments in China, the 2005 State Department’s human rights report presents a sobering inventory of the serious and ongoing human rights violations there. Despite improvement in some limited human rights areas, the situation is generally deteriorating and remains serious for NGOs, petitioners, political dissidents, human rights defenders, and others that deal with subjects the Chinese Communist Party (CCP) considers sensitive. By including individual cases, naming rights defenders, activists, and journalists in detention, the report keeps human beings in the picture and does not relegate them to faceless statistics. The detention of one journalist, lawyer or rural activist also has a broader silencing, intimidating and undermining impact on the rights of all journalists, lawyers and rights activists.

Unfortunately, the annual State Department report also underscores the difficulty and challenge of promoting systemic and structural human rights progress under an authoritarian regime that is also a powerful economic and political global actor. An important challenge for the State Department and Congress is how to get more traction out of these valuable reports.

Some related issues and opportunities include:

- Building upon multilateral initiatives and debates underway, including debates on UN reforms and the proposed Human Rights Council;
- Integrating human rights issues into all bilateral engagement initiatives, including trade and security agendas;
- Consultations convened by the Internet Governance Forum (IGF) and preparations for IGF’s first meeting in Athens from October 30–November 2, 2006. The IGF is currently accepting comments through March 31, 2006 on the need for a multi-stakeholder group to prepare for the meeting, and the top public policy issues that should be addressed there.

In addition to these general observations and comments, I would like to draw attention to some specific areas of concern:

## **1. Legal and administrative reforms**

The State Department report identifies several legal and administrative reforms and experiments, including return of authority to the Supreme People's Court to review death penalty appeals, local experiments to record police interrogation, and limiting the administrative detention of vulnerable groups (minors, elderly, pregnant women, and nursing mothers). However, key issues of implementation, transparency and accountability remain to be addressed.

Supreme People's Court review of death penalty cases: The Supreme People's Court has not yet clarified how it will administer its reclaimed power over death penalty reviews. It has transferred hundreds of court personnel to three new criminal tribunals for reviewing these cases. In 2006, high provincial courts are slated to grant hearings to all death penalty cases on appeal. Whether these death penalty reforms will help curb wrongful executions will depend on greater transparency in the criminal justice process and addressing local corruption and bias.

Limiting administrative detention: While important as indicators of greater protections for vulnerable groups, procedural reforms are slow in coming. Despite procedural time limits, individuals can still be detained for up to three years without the right to any kind of hearing. Given the hundreds of thousands in these administrative detention facilities, they must be dismantled as called for by UN monitors. There is no timetable for or confirmation of upcoming national legislation promulgating reforms of the RTL system, although there have been reports of a draft law in circulation.

Feet-dragging and lack of timeframes for other pending reforms including:

- Clarification of admissibility of evidence obtained through torture: In May 2005, the Supreme People's Procuratorate announced it would make ending torture and coerced confessions a priority, and adopt a new policy of more vigorous investigations of torture allegations and prohibiting the use of illegally obtained evidence. In Sichuan province, as of May 1, 2005, oral confessions extracted through torture may not be used as evidence. In September 2004 the Supreme People's Court issued a notice saying that evidence obtained through torture shall not be used as the "basis" for a criminal judgment, which ultimately still allows for the admissibility of evidence obtained through illegal means, including torture. Regulations issued by the Hebei provincial government in December 2005 echo the Supreme People's Court on this point.
- Ratification of the ICCPR: Although the Chinese government most recently formed a "special task force" to discuss the ratification of the ICCPR in 2004, China has made repeated representations regarding its intention to ratify since signing in 1998. It has yet to announce a timetable for ratification.

## **2. The "One-Child Policy"**

China has one of the world's most stringent population control policies, adopted as a national policy in 1979, and codified in the Law on Population and Family Planning in 2001. All states must

implement responsible social planning for sustainable growth, and women's reproductive and health rights are fundamental human rights. However, these state policies must be designed and implemented in compliance with their international legal obligations. Coercive practices, including those that have been documented in China, violate fundamental human rights of health, choice, physical autonomy, and the right to be free from physical abuse, and also perpetuate gender discrimination.

Some developments in China related to the "one-child policy" are a positive step forward, including relaxing certain aspects of the policy, criminalizing sex-selective abortions, introducing pilot programs that remove or reduce the use of quotas, and cooperation with experts at international bodies including the UN Population Fund. However, coercion and human rights violations related to the "one-child policy" continue to be documented. Of particular concern are the disproportionate violations documented against minorities and women living in rural areas. Announced reforms must be supported by documented monitoring and assessment of implementation.

### **3. Information control and the climate of rising social protests**

As China's online population grows, the Internet is being increasingly used to express overt political dissent but also to express dissatisfaction on local issues of corruption, media crackdowns, thug violence, and more. The State Department report describes the Internet regulations and restrictions that occurred during 2005. By expanding the definition of "news" to now include a wide arena of commentary, the Chinese government is attempting to centralize and control all China-based Web news reporting.

The debate on Internet censorship in China often tends to focus on the highly visible issues of politics, democracy, Falun Gong, and human rights. However, it must be stressed that online information control in China is much more subtle and pervasive. The regulations promulgated by the government advances the party line, ensuring that history and current knowledge are understood only through a government-sanctioned prism. For example, a recently published list of words monitored by a Chinese blog service provider includes, in addition to political keywords, such phrases as "block the road and demand back pay," "pollution lawsuit," and "procedures for dismissing an official"—covering a wide-range of issues that do not necessarily fall into the broad categories of politics and religion, but that are of high significance and impact the lives of ordinary Chinese citizens. The inability to discuss or even read about these issues online seeds and advances a ripple effect of disinformation.

Further, inequality between the rural and urban sectors, migrant and settled populations, men and women, and Han and minority peoples, continues to grow and fuel social protest. Growing poverty disproportionately impacts vulnerable populations, including women, children, migrants and minorities. The Chinese government is beginning to acknowledge the need to address poverty and growing inequality. However, by curtailing freedom of expression and access to information, the Chinese government is undermining the civil society necessarily to affectively address these complex social and economic problems.

### **4. Ratification of International instruments and Cooperation with International Monitors**

Ratification of ILO Core Convention: While it is commendable that China ratified another core ILO Convention in January this year, this must be viewed in the broader context of the Chinese

government's implementation of labor rights. China has ratified 24 ILO Conventions, but only four of the eight core conventions. Neither of the core forced labor conventions have been ratified, nor have those on the right of workers to organize.

Systemic and individual labor abuses remain serious in China, which have a disproportionate impact on migrant workers who comprise the majority of workers in the southern manufacturing areas. Migrant workers are especially vulnerable because they continue to be excluded from social welfare services such as healthcare and education, as well as protections for workers.

The ratification of another international labor rights instrument is an important step, but it also highlights the need to examine China's overall record of cooperating with international mechanisms. China has allowed the visits of several international human rights mechanisms to visit the country in the past several years. However, cooperation with the terms of reference with these mechanisms, and implementation of their recommendations has been less than satisfying.

The visit by the UN Special Rapporteur on Torture, Manfred Nowak, in December 2005 highlights the lack of political will in the Chinese government to honestly and transparently cooperate with international human rights mechanisms. Mr. Nowak stated in his press release on leaving Beijing that he and his team "were frequently under surveillance by intelligence personnel, both in their Beijing hotel as well as in its vicinity," and a number of individuals were intimidated or prevented from meeting with him. He noted further that, "in his interviews with detainees, the Special Rapporteur observed a palpable level of fear and self-censorship, which he had not experienced in the course of his previous missions."<sup>1</sup>

The Chinese government's response was not encouraging. It simply denied any interference in the visit, and despite its acknowledgement that torture remains a serious problem, it rejected Mr. Nowak's report as "ill-grounded on the part of facts and does not conform to reality."<sup>2</sup>

In addition, the experience of other international monitoring groups has been that China is unwilling to implement recommendations that may improve compliance with international human rights law. After its second visit to China in 2004, the UN Working Group on Arbitrary Detention concluded that few of its recommendations following its visits in 1996 and 1997 had been adopted.

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In conclusion, thank you for this opportunity to address these human rights concerns that have an impact on 20 percent of the world's population. China's human rights practices are also felt outside of its borders. The global reach of China's trade policies, investments and military aid must be monitored and documented to ensure that there is no deterioration of human rights in other countries, in particular in Africa and Latin America where China's presence has been increasing. A government that does not respect human rights at home is less likely to respect them when working outside its borders.

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<sup>1</sup> Special Rapporteur on Torture Highlights Challenges at end of visit to China," December 2, 2005 at <http://www.unhchr.ch/huricane/hurricane.nsf/view01/677C1943FAA14D67C12570CB0034966D?opendocument>.

<sup>2</sup> Ministry of Foreign Affairs of the People's Republic of China, "Foreign Ministry Spokesman Qin Gang's Press Conference on 6 December 2005," December 7, 2005, <http://www.fmprc.gov.cn/eng/xwfw/s2510/t225189.htm>.